



Gloria Negrete McLeod
ASSEMBLYMEMBER, 61ST DISTRICT

DISTRICT OFFICE

4959 Palo Verde Street, Suite 100.B
Montclair, CA 91763
(909) 621-2783 • Fax: (909) 621-7483

CAPITOL OFFICE

State Capitol, P.O. Box 942849,
Sacramento, CA 94249-0061
(916) 319-2061 • Fax: (916) 319-2161

E-MAIL

assemblymember.mcleod@assembly.ca.gov

WEB SITE:

<http://democrats.assembly.ca.gov/members/a61>

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California Laws Helping Working Parents



Compliments of
Assemblymember

Gloria Negrete McLeod

End Notes

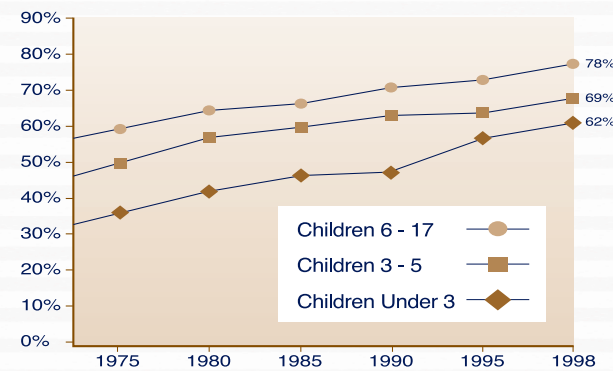
1. AB 1960, Ch. 1321, 1978 (Berman) added pregnancy, childbirth and related medical conditions to the Fair Employment and Housing Act, Government Code Section 12945, as amended by AB 1670, Ch. 591, 1999 (Kuehl).
2. See *Badih v. Meyers*, 36 Cal. App. 4th 1289 (1995).
3. AB 809, Ch. 1026, 1973 (Deddeh) and SB 652, Ch. 1163, 1973 (Moscone) extended disability benefits to cover complications due to pregnancy; AB 3881, Ch. 1182, 1976 (Fazio) extended disability benefits to routine pregnancies and childbirth.
4. SB 656, Ch. 973, 1999 (Solis) raised the maximum weekly benefits from \$336 to \$490.
5. AB 480, Ch. 114, 2000 (Ducheny), Revenue and Taxation Code Section 17052.6.
6. AB 77, Ch. 463, 1991 (Moore) and AB 1460, Ch. 827, 1993 (Moore), Government Code Sections 12945.1 and 12945.2.
7. *The 1997 National Study of the Changing Workforce, Families & Work Institute*, April 1998.
8. AB 2590, Ch. 1290, 1994 (Eastin) & AB 47, Ch. 157, 1997 (Murray), Labor Code Sect. 230.8.
9. AB 1127, Ch. 615, 1999 (Steinberg), Labor Code Section 98.7.
10. AB 109, Ch. 164, 1999 (Knox), Labor Code Section 233.
11. SB 848, Ch. 1169, 1976 (Rains) and AB 2901, Ch. 1073, 1982 (Martinez).

The Changing Workplace

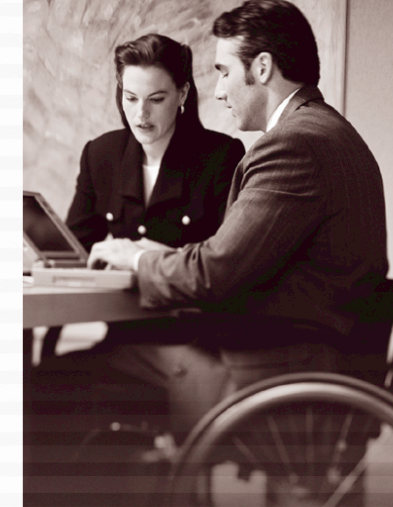
The workplace has changed. In the past, most men worked outside the home, and most women worked inside the home, usually raising children. Today, most women, including mothers of young children, are in the labor force. In response, California's legislators and governors have adopted a number of laws to accommodate the changing family needs of working mothers and fathers.

By 1998, 62 percent of American women with children younger than 3 years old, 69 percent of those with children between 3 and 5, and 78 percent with children between 6 and 17 were in the work force. As Figure 1 shows, these percentages have been steadily increasing since 1975.

Figure 1: Working Mothers with Minor Children 1975 - 1998



Source: "Labor Force Status of Mothers by Age of Youngest Child, March 1975 - 1998," Bureau of Labor Statistics, U.S. Department of Labor.



Today, most women, including mothers with young children, are in the labor force.



California's anti-discrimination laws protect pregnant working women.

When Working Women Get Pregnant

In most cases, having a baby can no longer cost a woman her job. California's anti-discrimination laws protect pregnant women working for private or public employers with **five or more** employees. California's pregnancy-protections for employed women include the right to:

- Take a doctor-certified disability leave before or after the baby is born,
- Return to a job after taking a disability leave for four months or less,
- Access a temporary transfer to a less strenuous or hazardous position during the pregnancy,
- Have workplace needs related to the pregnancy reasonably accommodated, based on the advice of a health care provider, and
- Have pregnancy-related medical coverage, if medical benefits are provided.¹

There are exceptions to these rights. See **"Resources for More Information,"** at the end of this brochure, to find out more about these protections.

An employee who experiences job discrimination related to her pregnancy but works for an employer with less than five employees may, under the State Constitution, be able to file a private lawsuit for pregnancy-related sex discrimination.²

When an expectant mother must take time off from work for medical reasons related to pregnancy or childbirth, she is usually entitled to some kind of paid pregnancy-disability coverage. Most employers are part of the State Disability Insurance (SDI) System, but

Resources for More Information

Job Protection During Pregnancy: California Department of Fair Employment and Housing, 1-800-884-1684 or <http://www.dfeh.ca.gov>.

State Disability Insurance for Pregnancy and Childbirth: Consult the white pages of your telephone directory for the nearest state Employment Development Department Office under CALIFORNIA State of, Employment Development Department, Disability Insurance Office.

Unemployment Insurance: Consult the white pages of your telephone directory for the nearest state Employment Development Department Office under CALIFORNIA State of, Employment Development Department, Unemployment Insurance information.

Child Care: Call 1-800-543-7793 to connect with your local Child Care Resource and Referral Office.

Federal Earned Income Tax Credit: IRS Publication 596, Earned Income Credit. This publication is available at <http://www.irs.ustreas.gov> or by calling 1-800-829-3676.

Family and Medical Leave: California Department of Fair Employment and Housing, 1-800-829-3676.

Leave to Volunteer in Your Child's School: Consult the white pages of your telephone directory for the nearest Division of Labor Standards Enforcement Office under CALIFORNIA State of, Industrial Relations Department, Labor Standards Enforcement.

Using Sick Leave Benefits for Dependent Care: Consult the nearest Division of Labor Standards Enforcement Office, as noted above.



Leaving a job to move with a spouse to a distant location is “good cause.”

Unemployment Insurance for Workers Who Quit Because of Family Needs

California law used to disallow unemployment insurance (UI) benefits to a worker who quit for family reasons, such as lack of childcare or moving to another city due to a spouse’s job transfer, the so-called “domestic quit” provision. In 1976, this “domestic quit” provision was repealed. In 1982, however, a law passed which specifies that leaving a job to move with a spouse whose job is transferred to a distant location is “good cause,” for a worker to quit, thus making the worker eligible for UI benefits.¹¹ Consequently, if one spouse is forced to quit due to the other spouse’s job transfer to another state, the spouse who was forced to quit is probably eligible for UI benefits. See **“Resources for More Information,”** at the end of this brochure, to find out more about UI benefits.

Conclusion

Most working parents face a daily time crunch balancing the needs of their families and the demands of their jobs. Recognizing these competing demands, California lawmakers have amended the laws to accommodate a changing workforce. I hope you have found this brochure helpful in understanding the variety of laws designed to help working parents.

some are not. Some employers provide disability coverage through another plan, and some employers provide coverage in addition to SDI. Check with your company’s personnel office.

State Disability Insurance benefits are available to most working women who are temporarily disabled by pregnancy.³ The period of coverage depends on the length of time a doctor certifies that the woman is disabled. Standard SDI payments for pregnant employees include up to four weeks before birth, six weeks after a vaginal birth, and eight weeks after a cesarean birth. Eligible employees receive two-thirds of their average weekly wage at the time of temporary disability, up to a maximum of \$490.⁴ See **“Resources for More Information,”** at the end of this brochure, to find out more about SDI.

If your doctor certifies that you are disabled, you may also be eligible for a paid pregnancy-disability leave for a period that is longer than the period for which standard SDI payments are available.

Whether your pregnancy-disability leave is paid or unpaid depends on your employer’s personnel policy and whether or not you are covered by disability insurance. Women who work for larger companies often collect SDI during the 8 to 12 weeks they are disabled by pregnancy and childbirth. After that time has elapsed, they take additional unpaid leave under California’s Family Rights Act, discussed below.

There is no set formula for how much time off from work a woman will have and whether that time off will be paid or unpaid. It depends on many different variables, such as the number of company employees, each employer’s personnel policy (which may be more generous than legally required), whether the employer is covered by SDI or some other disability-benefits plan, whether the pregnancy is difficult or more routine, whether the employee can tap into accumulated sick leave or vacation benefits, and whether the employee can afford to take time off without pay under the family and medical leave laws.



Childcare is often a major expense and can be a major concern for working families.

Child Care Assistance

Many parents need childcare in order to work. These parents must consider a number of factors, such as quality of care, cost and location. Because the cost of childcare is often a major expense, this is a threshold concern for working families. Figure 2 provides the average costs of full-time licensed childcare in California.

To help working parents find suitable care, the state licenses centers and homes. It sets minimum health and safety standards and conducts criminal background checks on staff. The state also imposes educational requirements on teachers and directors at day-care centers. The government helps pay for childcare for the working poor and for parents who are leaving welfare to go to work. For parents who want to hire a baby-sitter in their own home, the state will provide a criminal background check for a fee. See **“Resources for More Information,”** at the end of this brochure, to find out more about childcare assistance.

State and federal government tax laws assist working parents by offering income tax breaks related to childcare costs and by encouraging employers to make childcare benefits a part of the employee’s overall compensation package.

Figure 2: Average Costs of Full-Time Care for Infants, Preschool and School-Age Children in Licensed Care in California

Age Group	Weekly		Annual	
	Centers	Homes	Centers	Homes
Infant (under 2)	\$150	\$109	\$7,772	\$5,681
Preschool (2-5)	\$104	\$102	\$5,392	\$5,277
School Age (over 5)	\$67	\$64	\$3,481	\$3,321

Note: Full time care for infants and preschool children is over 30 hours per week, and full-time care for school-age children is for before and after school care, at less than 30 hours per week. The additional cost for child care over 30 hours per week for school-age children when school is not in session is not included in these average costs. The weekly rates were converted to annual rates using a 4.33 weeks per month conversion factor.

Source: California Child Care Resource and Referral Network, 1999 Regional Market Rate Survey.



The new “sick-leave” law is crafted to cover short-term illnesses of family members.

Using Your Sick Leave Benefits to Care for a Child, Spouse or Parent

A new California law now requires **all private and public employers** who offer paid sick leave to allow workers to use a portion of that sick leave to care for an ill spouse, parent or child.¹⁰ The general rule is the worker can use one-half of the employer-provided sick leave time for the care of family members. For example, if the employer provides an employee with 12 days of paid sick leave each year, the employee could use up to six days each calendar year to care for sick family members.

This new “sick-leave” law is crafted to cover short-term illnesses of family members, not serious long-term health conditions. Workers who are covered by the California Family Rights Act (CFRA) are eligible to take time off for serious health conditions of family members. A CFRA leave cannot be extended by use of this sick leave time.

This law is enforced by the Division of Labor Standards Enforcement in the state Department of Industrial Relations. See **“Resources for More Information,”** at the end of this brochure, to find out more about this new law.



There is a strong connection between a parent's involvement with a child's education and the child's performance in school.

Leave for Visiting or Volunteering in your Child's School

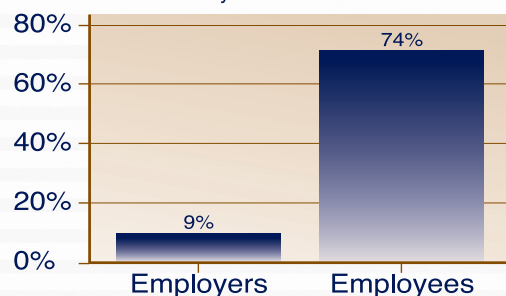
Unfortunately, working parents often have a hard time attending their children's school functions during working hours. Research shows there is a strong connection between a parent's involvement with a child's education and the child's performance in school.

A little-known California law allows parents, grandparents and guardians who work for employers with 25 or more employees to take up to 40 hours off from work each year to participate in school and licensed day care activities.⁸ Figure 5 shows the percentage of employers with 25 or more employees (9 %) and the percentage of California's workforce that work for employers with 25 or more employees (74 %).

To take advantage of this law, a parent, guardian or custodial grandparent must give reasonable notice to the employer. Employees must first use vacation, personal leave or compensatory time off for this purpose, or they may take unpaid time off, if provided by the employer.

An employee eligible for time off who is dismissed or discriminated against for trying to use it, should contact a local office of the California Department of Industrial Relations, Division of Labor Standards Enforcement (DLSE). Under a recent change in the Labor Code, a worker may file a complaint with the DLSE within six months after the occurrence of the violation.⁹ See **"Resources for More Information,"** at the end of this brochure, to find out more about the school-leave law.

Figure 5: Percentage of Employers and Employees Affected by California's School-Leave Law



Source: State EDD, Labor Market Information Division, UI payroll data, ES 202, 3rd Quarter, 1998

The federal government provides different kinds of tax credits that can be used to offset the costs of childcare for working parents. These tax credits are the Dependent Care Tax Credit and the Earned Income Tax Credit (EITC).

The Dependent Care Tax Credit allows federal taxpayers who pay for childcare for a child under the age of 13 to offset percentages of those expenses when calculating their federal taxes. (It also may be used by taxpayers who are paying for the care of a spouse or dependent who is physically or mentally incapable of self-care.)

The other federal tax credits that can be used to offset the costs of child care are the EITC and the Advance EITC for working individuals with children (there is also an EITC for taxpayers without children). You may qualify for the federal EITC if you have one child and earn less than \$26,500 a year or more than one child and you earn less than \$30,100. State law does not provide for a comparable tax credit on your State Income Taxes. See **"Resources for More Information,"** at the end of this brochure, to find out more about the federal EITC.

State and federal tax laws allow employers to offer employees a "cafeteria" compensation package that includes salary reductions for childcare expenses. This allows employees to have money taken from their paychecks for qualified childcare services without paying taxes on the excluded income. If a California employer provides such a cafeteria plan, a family can exclude from their gross income up to \$5,000 per year (\$2,500 in the case of married individuals who file separate tax returns) for qualified childcare services. California workers are allowed to combine the cafeteria plan income exclusion along with the Dependent Care Tax Credit for Federal Income Tax purposes. Contact your company's personnel office for more information on this and other potential employer-provided childcare benefits.

Figure 3: The State Allows a similar refundable credit for child and dependent care costs.⁵ The credit is based on a percentage of the nonrefundable federal child and dependent care credit, as illustrated below:

California Adjusted Gross Income	% of Federal Tax Credit
\$40,000 or Less	63
\$40,000 to \$79,000	53
\$70,001 to \$100,000	42
Over \$100,000	0



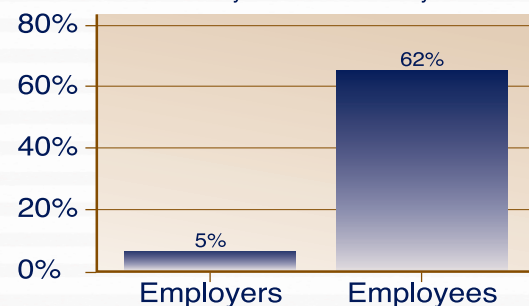
Family and Medical Leave

The right to unpaid family and medical leave is available to either parent to care for a newborn, a newly adopted child or a foster child. It is also available if there is a serious health condition affecting you, your child, your spouse or your parent. If your employer pays for a share of your health benefits, your employer must continue to make those payments while you are on this unpaid leave.

The California Family Rights Act (CFRA) requires private and public employers with 50 or more employees in a 75-mile radius to grant eligible employees unpaid family leave of up to 12 weeks a year.⁶ Although the law impacts a small percentage (5 percent) of California's employers, a sizable percentage (62 percent) of California employees are affected, because most employees in the state work for employers with over 50 employees (see Figure 4).

To be eligible for the leave, you must have worked for your employer for at least a year, and you must have worked at least 1,250 hours during the year before the leave. The state Department of Fair Employment and Housing (DFEH) has a helpful brochure, entitled the "California Family Rights Act," that answers the most frequently asked questions regarding California's family and medical leave law. See "**Resources for More Information**," at the end of this brochure, to find out more about family and medical leave.

Figure 4: Percentage of Employers and Employees Affected by California's Family-Leave Law



Source: State EDD, Labor Market Information Division, UI payroll data, ES 202, 3rd Quarter, 1998

Many employers have family leave policies that are more flexible than the requirements outlined here. Some employers even provide paid leave. You should check your company's personnel policies.

Many workers confuse pregnancy-disability leave and family leave. They are governed by two separate laws with different requirements and specifications. However, many employees are eligible to combine both kinds of leave after the birth of a child.

For instance, at the end of a standard 8 to 12 week doctor-certified pregnancy-disability leave for which most employees will collect SDI benefits, a CFRA-eligible worker may request an additional CFRA leave of up to 12 weeks. If an employee is experiencing a difficult pregnancy, she could potentially take up to four months off before and after the birth of the baby under the pregnancy-disability-leave law, and then request a CFRA leave. Special rules about paid medical benefits apply if you combine both leaves for a period longer than 12 weeks. For specific questions about pregnancy-disability leave and family leave, call the state DFEH 800 number listed in "**Resources for More Information**," at the end of this brochure.

Family leave is also available for a "serious" health condition affecting you, your child, your spouse or your parent(s). A "serious" health condition is an illness, injury, impairment or physical or mental condition that involves some kind of inpatient care or continuing treatment by a health care provider. Increasingly, workers are using family leave to help take care of elderly parents. A 1997 study by the national Families and Work Institute found that employed men with responsibilities to care for elderly persons were just as likely as employed women to take time off or reduce their work hours to provide care.⁷

A new law makes employees eligible for up to 12 weeks of paid disability leave due to illness or injury, the sickness of a close family member or the birth, adoption, or foster care placement of a new child.

The right to unpaid family and medical leave is available to either parent.

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Personal Notes

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